IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1151 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T C

Versus

B B ROHIT

Appearance:

1. Special Civil Application No. 1151 of 1991

MR MD PANDYA for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 05/07/2004

ORAL JUDGEMENT

Heard the learned advocates for the parties.

2. It is an admitted position between the parties

that the respondent was found to remain unauthorisedly absent and hence the authority had taken appropriate action of dismissing him from service. However, the said order of dismissal was not approved by the authority under Section 33(2)(b) of the Industrial Disputes Act, 1947 made by the Conciliation Officer. The petitioner-Corporation having challenged the same, on 29th April 1993 while passing the order of interim relief, the Court directed that though the respondent-workman shall be reinstated in service, the said reinstatement was subject to final result of the petition and the workman shall be paid 50% of the amount of arrears of backwages.

3. Mr Pandya, learned Senior Advocate appearing on behalf of the petitioner-Corporation has invited attention to the default card of the respondent-workman, which is taken on record, and in light of the same, the learned advocate for the respondent has accepted that the order of reinstatement may not be disturbed but it was prayed that a light punishment may be imposed in the facts and circumstances of the case.

4. By consensus, the learned advocates for the parties have accepted that the order of reinstatement may be permitted to operate along with payment of arrears of 50% of backwages as ordered on 29th April 1993 and further two annual increments may be withheld without any future effect. Therefore, the petition is disposed of with the modification that the respondent-workman shall be reinstated with only 50% of arrears of backwages being paid and stoppage of two increments without any future effect.

5. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

(D.A. MEHTA, J.)
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